

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

FILED  
APR 24 2014  
  
Clerk

\*\*\*\*\*  
UNITED STATES OF AMERICA, \* CR.10-40047

Plaintiff, \*  
\*  
vs. \* ORDER  
\*  
GUILLERMO ORTIZ, a/k/a "Memo," \*  
\*  
Defendant. \*

\*\*\*\*\*  
Pending before the Court is Defendant Guillermo Ortiz' "Motion to Substantiate the Court's Initial Finding to Sentencing Via Rule 52(a) of FRCivP Pursuant to the Court of Appeals' Order." Doc. 102. This matter is currently pending before the Eighth Circuit Court of Appeals pursuant to the appeal filed by Defendant on February 24, 2014. "Once a notice of appeal is filed, the district court is divested of jurisdiction over matters on appeal." *State ex rel. Nixon v. Coeur D'Alene Tribe*, 164 F.3d 1102, 1106 (8th Cir. 1999). As a general rule:

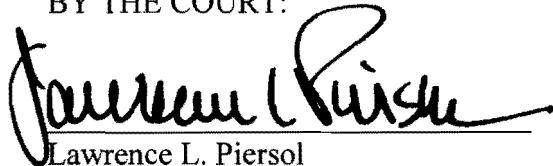
[A] federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously. The filing of a notice of appeal is an event of jurisdictional significance —it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.

*Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). Because the appeal is pending, this court is without jurisdiction over Ortiz' motion. While the appeal is pending Ortiz will need to raise any further issues with the Eighth Circuit Court of Appeals. As a result, this Court has no jurisdiction to consider this Motion. Accordingly,

IT IS HEREBY ORDERED that Defendant's "Motion to Substantiate the Court's Initial Finding to Sentencing Via Rule 52(a) of FRCivP Pursuant to the Court of Appeals' Order," ( Doc. 102) is denied as the Court is without jurisdiction to consider it.

Dated this 24<sup>th</sup> day of April, 2014.

BY THE COURT:



Lawrence L. Piersol  
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: Jennifer Stevens  
Deputy